

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-1088**

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D.M.,

Petitioner,

v.

GOPHER MINING COMPANY; WEST VIRGINIA COAL WORKERS'  
PNEUMOCONIOSIS FUND; DIRECTOR, OFFICE OF WORKERS' COMPENSATION  
PROGRAMS,

Respondents.

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On Petition for Review of an Order of the Benefits Review Board.  
(07-0155-BLA)

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Submitted: May 22, 2008

Decided: May 28, 2008

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Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Petition denied by unpublished per curiam opinion.

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D.M., Petitioner Pro Se. Francesca Tan, Kathy Lynn Snyder, JACKSON  
KELLY PLLC, Morgantown, West Virginia; Helen Hart Cox, OFFICE OF  
WORKERS' COMPENSATION PROGRAMS, Betty English, OFFICE OF THE  
SOLICITOR GENERAL, Patricia May Nece, UNITED STATES DEPARTMENT OF  
LABOR, Washington, D.C., for Respondents.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

D.M. seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's denial of black lung benefits pursuant to 30 U.S.C. §§ 901-945 (2000). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we deny the petition for the reasons stated by the Board. D.M. v. Gopher Mining Co., No. 07-0155-BLA (Aug. 29, 2007). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED